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UNCLAS SECTION 01 OF 02 ANKARA 000723

SIPDIS

DEPT PASS USTR FOR MMOWREY  
TREASURY FOR OASIA  
USDOC/ITA/MAC/KNAJDI  
DEPT PASS EXIM FOR MARGARET KOSTIC  
USDA OSEC FOR DEP U/S TERPSTRA  
USDA FAS FOR OA YOST; ITP/SHEIKH; FAA/DEVER

SIPDIS  
SENSITIVE

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TAGS: [EINV](#) [ECON](#) [BEXP](#) [TU](#)  
SUBJECT: TURKEY: COURT RULINGS LEAVE FOREIGNERS' LAND PURCHASE  
RIGHTS IN DOUBT

REF: ANKARA 699

¶1. (SBU) Summary and comment: The Constitutional Court has issued two opinions this year striking down parts of two different laws that had allowed foreigners to purchase real estate in Turkey. A January ruling struck down provisions of the Title Deed Law that allowed foreign individuals to purchase land, effective April 16. A March ruling struck down provisions in the Foreign Investment Law that allowed foreign companies or Turkish companies with foreign capital to purchase land in Turkey, effective October 16 (reftel). The two rulings came for entirely different reasons, and neither is retroactive.

¶2. (SBU) When the January ruling went into effect on April 16, the Land Registry Office announced it was barring land sales to foreign individuals, but emphasized that foreign corporations were still allowed to buy land. Unfortunately, that same day, the Court published the legal reasoning for its March ruling that foreign corporations cannot buy land. Even though the Land Registry announcement was legally correct -- the Court's March ruling barring land purchases by foreign corporations will not go into effect until October -- it appeared to contradict the Court's ruling and created confusion about foreign land purchase rights. The Ministry of Finance has submitted an amendment for Cabinet approval that would lift the Court ruling against land purchase by foreign individuals. We expect it also will propose amendments to overturn the ruling limiting sales to foreign corporations. But the damage to Turkey's reputation may already be done. End summary and comment.

The January Decision Affecting Individuals  
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¶3. (U) The Constitutional Court issued rulings in January and March striking down provisions of two different laws that allowed land purchases by foreigners in Turkey. The January ruling struck down part of the Land Title Law that allows foreign individuals to buy property. The Court annulled a provision that authorized the Cabinet to increase the legal limit on land ownership by foreigners from 2.5 hectares to 30 hectares. The Court also canceled the article that set a 0.5% limit on the area foreigners could acquire in any one province, excluding forest and lake areas. The Court reasoned that 0.5% of land in a province excluding lakes and forests was the entire remaining land area in some provinces. The ruling took effect April 16, three months after the Court published its legal reasoning for the decision.

¶4. (U) On April 16, the Turkish Land Registry Office announced that it would stop permitting property sales to foreign individuals pursuant to the January Court decision. The Land Registry Office stated that the ban affects only foreign individuals, and that dual nationals and foreign companies registered under the Turkish Commercial Code could continue to buy property in Turkey. The Land Registry Office also announced that it sent a draft amendment to the Prime Ministry that reportedly limits property ownership by foreigners to 2.5 hectares, removes the Cabinet's authority to increase this amount, and defines the provincial land acquisition limit as 0.5% of the development zone plan. Criticizing this proposal, Finance Minister Unakitan announced that the GOT had submitted an amendment to the Cabinet that would overturn the January decision and clear the way for foreign individuals to once again purchase property in Turkey.

#### The March Ruling Affecting Corporations

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¶5. (U) In March (see reftel), the Constitutional Court struck down provisions of the Foreign Investment Law that allowed foreign corporations, or Turkish corporations with foreign capital, to buy land in Turkey. The ruling said it would go into effect six months after the Court published its legal reasoning in the case. By chance, the Court published its reasoning on April 16, the same day that the Land Registry banned foreign individuals from buying land pursuant to the January Court decision.

¶6. (SBU) To make matters even more confusing, the Court's legal reasoning for the Foreign Investment Law decision contradicts the statements by the Land Registry Office that Turkish companies with foreign capital could buy land. The Court stated that the principles and procedures by which foreign investors can acquire property in Turkey must be well-defined by laws and regulations.

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The failure of the Foreign Investment Law to define the limits under which foreign companies can acquire property causes uncertainties, according to the Court. Its decision applies not only to foreign corporations doing business in Turkey, but also to Turkish corporations registered with foreign capital. The GOT has until October 15 to amend the Foreign Investment Law before the Court's ruling takes effect.

¶7. (SBU) Comment: We expect that the GOT will push through amendments to both the Title Deed Law and the Foreign Investment Law to overturn these Court decisions. But the damage these rulings have caused by creating confusion in an already skittish market about which classes of foreign investors have the right to purchase land in Turkey is already done. The Land Registry Office's statement was legally correct but only confused matters further. The Court decisions could further complicate Turkey's efforts to attract enough foreign investment to finance its current account deficit. This situation is yet another good example of why foreign investors cite the uncertainties, complexities and lack of transparency of the legal system as one of the main barriers to greater foreign investment in Turkey. End comment.

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